

**MINUTES OF THE REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION
COUNCIL CHAMBERS, CITY HALL
June 23, 2009**

1. Present

Commissioners:

Sherwood Bishop, Chair
Ryan Thomason, Vice-Chair
Bill De Soto
Bill Taylor
Curtis Seebeck
Allen Shy
Cecil Pounds
Jim Stark
Randy Bryan

City Staff:

Chuck Swallow, Director of Development Services
Matthew Lewis, Assistant Director of Development Services-Planning
Bill Couch, Development Projects Coordinator
Phil Steed, Planner
John Foreman, Planner
Sofia Nelson, Planner
Francis Serna, Recording Secretary

2. Call to Order and Announce a Quorum is Present.

With a quorum present, the Regular Meeting of the San Marcos Planning & Zoning Commission was called to order by Chair Bishop at 6:00 p.m. on Tuesday June 23, 2009 in the Council Chambers, City Hall building of the City of San Marcos, 630 E. Hopkins, San Marcos, Texas 78666.

3. Chairperson's Opening Remarks.

Chair Bishop welcomed the audience.

4. Executive Session

There were no discussions.

5. Citizen Comment Period

Scott Gregson, 120 W. Hopkins, Suite 100, San Marcos spoke on behalf of Items 16 and 17. He stated that he has read the staff comments and asked the Commission to support the requests. Mr. Gregson explained that the historic building has been empty for some time and felt that the proposal was an appropriate use for the building. He commented that he understands the policy complications of the request but is still in support of the requests.

6. **CUP-09-10.** Hold a public hearing and consider a request by Herlinda Lopez for a renewal of a TABC Conditional Use Permit to allow the on-premise consumption of beer and wine at 2550 Hunter Rd.

John Foreman explained that the applicant received a variance to the distance requirements. In addition, the applicant was granted a CUP on June 10, 2008 for one year. He stated that the applicant is seeking a renewal of the CUP. He pointed that there are no substantial changes to the floor plan or site in the last year. No other departments have reported concerns with the proposal. Staff noted that the applicant was to submit an annual report showing that alcohol sales are no more than 25% of the total gross revenue of the business. Staff has not received the report and is recommending that the renewal be conditioned upon staff receiving the report. Staff recommended approval of the request with the conditions that the CUP be valid for one year, provided standards are met, subject to the point system; include the statement "Due to the close proximity of a school campus, please be alert for students and drive carefully. This restaurant will accommodate, as necessary, any individual that needs transportation after consuming alcoholic beverages." On the restaurant menus; the restaurant submit a report showing that alcohol sales accounted for less than 25% of total gross revenue in the last year; the restaurant operates such that gross revenue from alcohol sales will be less than 25% of total gross revenue for the business, with the restaurant submitting annual reports indicating this condition has been met; the primary entrance for the restaurant be at least 200 feet from the primary entrance of the school; and alcoholic beverages be served no earlier than 11 a.m. and no later than 10 p.m.

Chair Bishop opened the public hearing. Herlinda R. Lopez, owner of Pappa Pasta's Restaurant located at 2250 Hunter Road stated that she has met all standards but if there are additional regulations, she would comply with the regulations to receive the renewal of the CUP. Ms. Lopez advised staff that she has the report showing that alcohol sales account for less than 25% of total gross revenue. She added that the business is not doing great, but asked the Commission to approve the renewal so that they can continue to do business in San Marcos. She thanked the Commission for their time. There were no additional citizen comments and the public hearing was closed.

Commissioner Seebeck expressed concerns that staff has not received the report from the applicant. He felt that the request should be postponed until the reports are submitted to staff.

Commissioner Pound asked Ms. Lopez if she had the report and if she could submit the report within thirty days.

Herlinda Lopez responded that she would contact her bookkeeper on Wednesday.

Staff explained that a thirty day renewal to allow the applicant time to submit the report to staff has been done in the past.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Pounds the Commission voted eight (8) for and none (0) opposed, to approve the request with the conditions that the CUP be valid for thirty days, provided standards are met, subject to the point system; include the statement "Due to the close proximity of a school campus, please be alert for students and drive carefully. This restaurant will accommodate, as necessary, any individual that needs transportation after consuming alcoholic beverages." On the restaurant menus; the restaurant submit a report showing that alcohol sales accounted for less than 25% of total gross revenue in the last year; the restaurant operates such that gross revenue from alcohol sales will be less than 25% of total gross revenue for the business, with the restaurant submitting annual reports indicating this condition has been met; the primary entrance for the restaurant be at least 200 feet from the primary entrance of the school; and alcoholic beverages be served no earlier than 11 a.m. and no later than 10 p.m. The motion carried unanimously. Commissioner Taylor was absent.

7. CUP-09-12. Hold a public hearing and consider a request by Keith Carney for a renewal of a TABC Conditional Use Permit to allow the on-premise consumption of beer and wine at 700 N LBJ #107.

John Foreman stated that the request for renewal meets the distance requirements. There are no major concerns from other departments. He added that the applicant has stated that there have been no substantial changes to the floor plan or site in the last year. Staff recommended approval of the request with the condition that the CUP be valid for three (3) years, provided standards are met, subject to the point system.

Chair Bishop opened the public hearing. There were no citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Shy and a second by Commissioner Seebeck the Commission voted eight (8) for and none (0) opposed, to approve the request with the conditions that the CUP be valid for three (3) years, provided standards are met, subject to the point system. The motion carried unanimously. Commissioner Taylor was absent.

8. WPP2-08-0002: Hold a public hearing and consider a request by Carlson, Brigrance & Doering, Inc, for approval of a Qualified Watershed Protection Plan Phase 2 for Lot 1, Block C, Hays County Government Center Campus and 1.7 Acres out of the Remainder of W.C. Carson tract called 219.070 Acres Volume 752, Page 33 D.R.H.C.

Phil Steed advised the Commission that the Concept Plat and Preliminary Plat for this project was approved by the Planning Commission on November 13, 2007. The Final Plat of Phase I & II were approved by the Commission on May 27, 2008. He explained that the property lies within the 100-year floodplain of Willow Springs Creek, as mapped by FEMA. In addition, the applicant desires to spread the material in two separate areas as shown on the attached plans in order to reclaim land within the 100-year floodplain for future development. No specific development is proposed at the time. Mr. Steed added that no trees are proposed to be removed during the grading activities and all disturbed areas will be appropriately revegetated to prevent erosion and sedimentation. Staff recommended approval of the request as submitted.

Chair Bishop opened the public hearing. Charles Brigrance, the applicant, introduced himself and stated that he was available to answer questions. There were no citizen comments and the public hearing was closed.

Chair Bishop advised the Commission that the map provided in the agenda packet does not show the floodway. Although, the map displayed on the power point does show the floodway and that the applicant is not filling in the floodway with soil. Mr. Bishop also pointed out that the creek shown is Willow Creek Springs.

Commissioner Bryan expressed concerns with the soil being placed in the floodplain which may cause problems downstream.

Matthew Lewis explained that the applicant is raising the base elevation of the floodplain. He stated that drainage will be addressed during the site plan review process. Mr. Lewis added that the impervious cover will remain the same and that the applicant is relocated the soil to a different section of the lot.

Carlson Brigrance explained that they have proposed to move soil from one area on the property to a different area. He stated that there is no proposed development at the time, although when

the sites are developed, a Letter of Map Revision (LMR) will be required to amend the FEMA floodplain lines and would have to be reviewed by staff and FEMA.

Commissioner Stark commented that he was in support of moving soil but not adding soil.

MOTION: Upon a motion made by Commissioner Thomason and a second by Commissioner Seebeck the Commission voted eight (8) for and none (0) opposed, to approve the request as submitted. The motion carried unanimously. Commissioner Taylor was absent.

The following three items, LUA-09-03, ZC-09-04 and PDD-09-01 were combined.

9. LUA-09-03. Hold a public hearing and consider a request by Preferred Development Partners (Don Kuyrkendall), under their agent ETR Development Consulting, for a land use amendment from Very Low Density Residential (VLDR); Low Density Residential (LDR) and Open Space (OP) to Low Density Residential (LDR) with a maximum residential density of 6.00 units for 101.4 acres of land out of the J.M. Veramendi Survey No.1 Abstract 17.

John Foreman stated that the Land Use Amendment (LUA) is either consistent or neutral with the Horizons Master Plan. He explained that the LUA cannot be evaluated with the current PDD proposal because the land use is not identified. Mr. Foreman pointed out that the parkland and buffering are appealing, but there is little in the PDD to regulate the outlined intent. Staff's primary concern with the proposal is residential density and compatibility with the surrounding properties. In addition, the Horizons Master Plan policy statements suggest mitigating impacts of multifamily development on adjacent properties. Staff considered the request to change the land use classifications to Mixed Use to be supportive of the Horizons Master Plan and suggested that the applicant submit a more detailed PDD.

10. ZC-09-04. Hold a public hearing and consider a request by Preferred Development Partners (Don Kuyrkendall), under their agent ETR Development Consulting, for a Zoning change from Single Family (SF-6) to Base Zoning of Mixed Use (MU). The underlying base zoning for the PDD is planned to be Mixed Use (MU). Subject area includes (*Area 1 - 38.88 acres, Area 2 26.18 acres and Open space 36.34 acres*) out of the J.M. Veramendi Survey No.1 Abstract 17.

11. PDD-09-01. Hold a public hearing and consider a request by Preferred Development Partners (Don Kuyrkendall), under their agent ETR Development Consulting, for a Zoning change from Single Family SF-6 to a Planned Development District with the underlying base zoning for the PDD planned to be Mixed Use. Subject area includes 101.4 acres of land (*Area 1 - 38.88 acres, Area 2 26.18 acres and Open space 36.34 acres*) located South of Stagecoach on the west side of Hunter Rd.

Chair Bishop opened the public hearing for LUA-09-03, ZC-09-04 and PDD-09-01.

Ed Theriot with ETR Development Consulting and representing Don Kuyrkendall asked for a positive recommendation from the Planning and Zoning Commission. He advised that Kelly Kilburn, Engineer for the project was available to answer questions. Mr. Theriot gave a power point presentation of the proposed project. He stated they are very interested to work with the Commission and feels that the proposed development is a big benefit to the City. Mr. Theriot added that he would hate to lose an opportunity for a good development on the property. There were no additional citizen comments and the public hearing was closed.

Chair Bishop asked staff if the proposal was a complete PDD submittal.

Bill Couch stated that the PDD submittal does not meet the typical standard that other PDD's that the Commission has approved. He added that previous PDD's submitted in San Marcos have gone into great deal of expense, time and effort to prepare watershed plans, traffic impact

assessments, drawings, sketches, layout options that have been presented to the Planning Commission.

The Commission expressed concerns regarding proposed development designations not indicated on the PDD.

Bill Couch advised the Commission that the applicant has addressed the concerns regarding density but does specify how many units per acre. He pointed out that there is significant dedication of parkland and public improvements. Mr. Couch added that there are also significant questions that remain regarding what could be developed on the property. He stated that staff suggested the applicant comply with the occupancy restriction in which they have declined. There is also discrepancy in the total feet of buffer zones and building heights proposed. Bill Couch explained that the applicant could submit a zoning change request with a more dense residential development to assure the Commission what would be proposed. In addition, the applicant has agreed to maintain the park and provide parking.

Commissioner DeSoto added that there is not enough detail in the PDD to make a recommendation. He mentioned that occupancy was a concern with the surrounding neighbors.

Commissioner Bryan stated that he has serious concerns regarding the request. He felt that a PDD should have detailed information so that a recommendation could be made. Mr. Bryan felt that student housing would be developed on both sides of the parkland. He mentioned that if the property has been undevelopable for some time it is because it may be priced too high for the current times. Commissioner Bryan added that he is in support of development in San Marcos. He commented that he is not in support of the request as it stands.

Commissioner Thomason asked how much property is not developable. He inquired if the request was for marketing purposes.

Ed Theriot stated that 19 acres could be developed. He added that 11 acres of the floodplain could be utilized. Mr. Theriot explained that there is currently no proposed development at this time.

Kelly Kilburn, Engineer for the project stated that they do not have a specific plan for the property. He stated that they could bring a hypothetical concept plan and asked if they would be able to amend the plan in the future.

Matthew Lewis explained to the Commission that the concern is the applicant submits a concept plan that meets the codes, the Commission has statutorily cannot deny the plat and have entitled the land uses to the allotted uses currently submitted.

Chair Bishop commented that he is concerned with the parkland dedication because it is a dedication of an easement. He explained that parkland dedication is for public parkland dedication.

Bill Couch added that there was one more letter in opposition received which was included in their reading files.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Shy, the Commission voted eight (8) for and none (0) opposed, to postpone LUA-09-03, ZC-09-04 and PDD—09-01 the request to a future date not to exceed six (6) months. The motion carried unanimously. Commissioners Taylor was absent.

12. LUA-09-05. Hold a public hearing and consider a request by John Rarity for a land use amendment from Low-Density Residential to Medium-Density Residential for the property located at 510 Harvey St. The subject property consists of .1890 acres out of and part of the Lindsey and Harvey addition, Block 2, ½ of Lot 7.

John Foreman explained that the land use amendment proceeds concurrently with the zoning change request. He stated that the applicant would like to rent out the main house and the garage apartment separately, which is not allowed in a single family zoning restrictions. He stated that the proposal is consistent with the Horizons Master Plan and the Sector 1 Plan. Mr. Foreman added that the property historically functioned as a duplex which was zoned multi-family until the citywide rezoning. Staff recommended approval of the request.

Chair Bishop opened the public hearing. John Rarity, owner, stated that he and his wife were available to answer questions. There were no additional citizen comments and the public hearing was closed.

Chair Bishop clarified that the zoning classification was changed during the city wide rezoning, therefore are requesting a zoning change to allow the prior use of the property to remain.

MOTION: Upon a motion made by Commissioner Shy and a second by Commissioner Seebeck, the Commission voted eight (8) for and none (0) opposed, to approve the request. The motion carried unanimously. Commissioner Taylor was absent.

13. ZC-09-06. Hold a public hearing and consider a request by John Rarity for a zoning change from Single Family Residential (SF-4.5) to Duplex Restricted (DR) for the property located at 510 Harvey St. The subject property consists of .1890 acres out of and part of the Lindsey and Harvey addition, Block 2, ½ of Lot 7.

Sofia Nelson advised the Commission as outlined in the land use amendment case, the request is consistent with the Horizons Master Plan and the Sector Plan. Staff recommended approval of the request.

Chair Bishop opened the public hearing. There were no citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Bryan the Commission voted eight (8) for and none (0) opposed, to approve the request. The motion carried unanimously. Commissioner Taylor was absent.

14. LUA-09-06. Hold a public hearing and consider a request by Bob Burris for a land use map amendment from Commercial to Medium Density Residential for the property located at 1011 Uhland Rd. The subject property consists of 0.84 acres out of and part of the Juan Veramendi Survey #2.

John Foreman advised the Commission that the applicant is requesting a land use map amendment from Commercial to Medium Density Residential. He explained that the property is an existing mobile home park with commercial uses on the site. The applicant is proposing to replace the commercial uses with residences. Staff has evaluated the request for consistency with the Horizons Master Plan and the Sector 6 Plan. Staff recommended approval of the request.

Chair Bishop opened the public hearing. Bob Burris, owner, explained that he wants to do away with the bail bonds and develop a family owned community. He added that the first phase will be

for the low and moderate income. Mr. Burris thanked the Commission for their time. There were no additional citizen comments and the public hearing was closed.

Commissioner Pounds inquired how many additional units would be added and if it would impact the traffic.

Bob Burris commented that three units would be added.

MOTION: Upon a motion made by Commissioner Shy and a second by Commissioner Bryan the Commission voted eight (8) for and none (0) opposed, to approve the request. The motion carried unanimously. Commissioner Taylor was absent.

15. ZC-09-09. Hold a public hearing and consider a request by Bob Burris for a zoning change from Community Commercial (CC) to Manufactured Home (MH) for the property located at 1011 Uhland Rd. The subject property consists of 0.84 acres out of and part of the Juan Veramendi Survey #2.

Sofia Nelson stated that the request is a zoning change from Community Commercial to Manufactured Home. She explained that the applicant has requested a down zoning to be able to add more mobile homes to the property. Staff has reviewed the request and feels it is consistent with the character and sector plans of the area. Staff recommended approval of the request.

Chair Bishop opened the public hearing. There were no citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner DeSoto and a second by Commissioner Shy the Commission voted eight (8) for and none (0) opposed, to approve the request. The motion carried unanimously. Commissioner Taylor was absent.

16. ZC-09-07. Hold a public hearing and consider a request by Wyatt Strauss for a zoning change from Community Commercial (CC) to Central Business Area (CBA) for the property located at 119 S. Edward Gary. The subject property consists of 0.3339 acres out of and part of the Original Town of San Marcos, Block 9, E. ½ of Lots 3-4.

Matthew Lewis explained that the zoning change request is for the property that serves as the Wells Fargo parking lot which is located in the Sector 8 Plan and is part of the Downtown Association. He pointed out that the intent of the zoning change is to provide continuity to the next zoning change on the agenda. Mr. Lewis stated that staff has analyzed the request and the intended use for the next zoning change request does come into compliance with proposed uses in the downtown area. He pointed out that staff feels there will be additional parking and traffic issues if the parking lot becomes part of the Central Business Area and therefore will not have parking requirements. Mr. Lewis mentioned that Mr. Strauss does have a 5 year parking lease, although are uncertain if parking capacity will increase at that time the development of the property occurs. Therefore, staff recommended denial based on parking issues.

Chair Bishop opened the public hearing. Brian Montgomery, President of the Downtown Association and owner of The Wine Cellar said that Wyatt Strauss spoke to the Downtown Association and presented his proposal. The Downtown Association is very impressed with the project and fully supports the project. Mr. Montgomery stated he understood the parking concerns and felt it was a city issue. He submitted a letter of support.

Kelly Franks, Main Street Manager for the City of San Marcos stated that they also received a presentation of the proposed project from Mr. Strauss. She pointed out that the Board voted unanimously to approve the request. The Board felt that the proposed project is a benefit to downtown and would like to maintain the historical significance of the building. Ms. Franks added that Mr. Strauss intends to maintain the local integrity of the historic structure. She mentioned that the Commission received a letter in support from the Board.

Wyatt Strauss stated that he felt there was a need for an establishment where for adults to go and have fun in San Marcos, therefore found the building that was historically significant and would benefit with what he had to offer. He has proposed to have a music venue with a micro brewery and expect to use the building for private parties. Mr. Strauss presented the Commission with photos of the proposed project. Mr. Strauss introduced Ruben Brooks, who is also involved with the proposed project. He further explained that they do expect to be a business that has food sales of 51% or more. They anticipate having coffee and pastries for breakfast, open for lunch and a good part of the day. Mr. Strauss explained that the main parking issue will be when larger events are scheduled after hours. He also expects to use produce from the Farmer's Market and have country home cooked meals. Mr. Strauss introduced Frank Gomillion, architect for the project. He stated that they are available to answer questions. There were no additional citizen comments and the public hearing was closed.

Matthew Lewis advised that the proposed use is consistent and an appropriate use for the downtown area, although the parking lot in the CBA will be an issue.

Commissioner Shy mentioned that for the Downtown Association and the Main Street Advisory Board to support the request, the proposed project is something that can happen in the downtown area. He pointed out that with the Downtown Master Plan, it is possible that the CBA be expanded. Mr. Shy stated he owns three businesses downtown and welcomes the new business.

Commissioner DeSoto stated that staff raised a good point regarding setting a precedent.

Matthew Lewis explained that the setting a precedent is not a concern because Mr. Strauss holds a parking agreement.

Chair Bishop commented that that he has an issue with the parking.

Commissioner Shy inquired if there was any other parking available for the proposed project.

Wyatt Strauss explained that they have an understanding with the San Marcos Judicial Center to use the parking lot for after hour events.

Roger Pearson, McCrocklin Real Estate, stated that they knew there was a parking problem. He explained that they tried to work something out with the Railroad but could not come into an agreement. Mr. Pearson mentioned they are 40 parking short and felt that they would only have a problem during after hour events starting about 6:30 p.m.

Chair Bishop stated that despite his reservations he felt that with both the Downtown Association and the Main Street Advisory Board being in support he would also support the request.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Shy the Commission voted eight (8) for and none (0) opposed, to approve the request. The motion carried unanimously. Commissioner Taylor was absent.

17. **ZC-09-08.** Hold a public hearing and consider a request by Wyatt Strauss for a zoning change from Community Commercial (CC) to Central Business Area (CBA) for the property located at 101 S. Edward Gary. The subject property consists of 0.667 acres out of and part of the Original Town of San Marcos, Block 6, Lot 5A.

Matthew Lewis stated that the parking requirement is the only issue with the request. Staff feels that entitling the property to the development standards permitted in the CBA is not appropriate at this time. Staff recommended denial of the request due to parking issues. Mr. Lewis pointed out that staff received a letter in support from the Main Street Advisory Board.

Chair Bishop opened the public hearing. Wyatt Strauss commented that they are very close to being self parked. He asked the Commission to approve the request. There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Thomason the Commission voted eight (8) for and none (0) opposed, to approve the request. The motion carried unanimously. Commissioner Taylor was absent.

18. Planning Issues:

- a. Update on the Watershed Protection Plan Workshop.

Matthew Lewis advised the Commission that the Watershed Protection Plan Workshop will be posted on the July 14, 2009 Planning Commission Agenda.

19. Discussion Items.

Planning Report

Commissioners' Report

Chair Bishop asked staff to meet with applicants regarding their request to make a presentation and advise the Commission how long the presentation will be prior to opening the public hearing. He pointed out that it is important that the applicant remain within his time requested.

20. Consider approval of the minutes from the Regular Meeting of June 9, 2009.

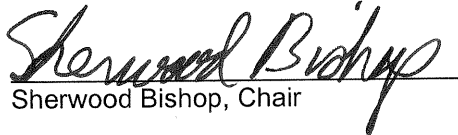
MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Thomason, the Commission voted eight (8) for, zero (0) opposed to approve the Regular Meeting Minutes of June 9, 2009 with corrections. The motion carried. Commissioner Taylor was absent.

21. Questions and answers from the Press and Public.

There were no comments from the press and public.

22. Adjournment

Chair Bishop adjourned the Planning and Zoning Commission at 8:01 p.m. on Tuesday, June 23, 2009. The motion carried unanimously.


Sherwood Bishop, Chair


Allen Shy, Commissioner

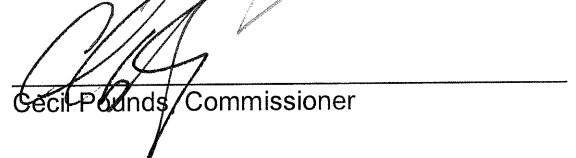

Bill DeSoto, Commissioner


Curtis Seebeck, Commissioner


Ryan Thomason, Vice Commissioner


Jim Stark, Commissioner


Randy Bryan, Commissioner


Cecil Pounds, Commissioner

ATTEST: 
Francis Serna, Recording Secretary